



# LAWS5056

## Succession

Session 1, Online-scheduled-weekday 2023

*Macquarie Law School*

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### **Disclaimer**

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

## General Information

Unit convenor and teaching staff  
Unit Convenor, Lecturer and Tutor  
Dr Henry Kha  
[henry.kha@mq.edu.au](mailto:henry.kha@mq.edu.au)

Tutor  
Ms Mary-Ann De Mestre

Credit points  
10

Prerequisites  
80cp in LAW or LAWS units

Corequisites

Co-badged status

Unit description  
This unit explores the law relating to the making and construction of wills; the grant of probate and administration; and the distribution of testate and intestate estates. The provisions of the Family Provision Act 1982 are considered as well as those of the Wills, Probate and Administration Act 1898 (NSW) and the Succession Act 2006 (NSW). Emphasis is given to the role of the lawyer in planning the client's affairs in the light of the above legislation. Students in this unit will study will drafting and complete exercises in drafting a will that complies with a client's instructions.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

**ULO1:** Describe and explain links between understandings of property and relationships in the context of succession law.

**ULO2:** Analyse case law on the Succession Act 2006 (NSW) and apply to the validity and interpretation of wills.

**ULO3:** Critically evaluate the law on family provision and apply family provision

legislation to complex factual situations involving estate disputes.

**ULO4:** Advise on competing family claims dealing with testate estates, intestate estates and partial intestacy.

**ULO5:** Assess the various legal principles to give appropriate advice on wills.

## General Assessment Information

Unless a Special Consideration request has been submitted and approved, a 5% penalty (of the total possible mark) will be applied each day a written assessment is not submitted, up until the 7th day (including weekends). After the 7th day, a mark of, 0 (zero) will be awarded even if the assessment is submitted. Submission time for all written assessments is set at 11.55pm. A 1-hour grace period is provided to students who experience a technical issue.

This late penalty will apply to non-timed sensitive assessment (incl essays, reports, posters, portfolios, journals, recordings etc). Late submission of time sensitive tasks (such as tests/exams, performance assessments/presentations, scheduled practical assessments/labs etc) will only be addressed by the unit convenor in a Special Consideration application. Special Consideration outcome may result in a new question or topic.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Succession Law essay</a>	40%	No	21 April 2023
<a href="#">Written response to a succession law problem</a>	40%	No	2 June 2023
<a href="#">Participation Tasks</a>	20%	No	Ongoing

### Succession Law essay

Assessment Type <sup>1</sup>: Essay

Indicative Time on Task <sup>2</sup>: 35 hours

Due: **21 April 2023**

Weighting: **40%**

Students will be required to prepare an essay on an aspect of proposed reform to Succession Law in NSW

On successful completion you will be able to:

- Describe and explain links between understandings of property and relationships in the context of succession law.

- Analyse case law on the Succession Act 2006 (NSW) and apply to the validity and interpretation of wills.
- Critically evaluate the law on family provision and apply family provision legislation to complex factual situations involving estate disputes.
- Assess the various legal principles to give appropriate advice on wills.

## Written response to a succession law problem

Assessment Type <sup>1</sup>: Professional writing

Indicative Time on Task <sup>2</sup>: 35 hours

Due: **2 June 2023**

Weighting: **40%**

An essay applying succession law to resolve a problem scenario

On successful completion you will be able to:

- Analyse case law on the Succession Act 2006 (NSW) and apply to the validity and interpretation of wills.
- Critically evaluate the law on family provision and apply family provision legislation to complex factual situations involving estate disputes.
- Advise on competing family claims dealing with testate estates, intestate estates and partial intestacy.
- Assess the various legal principles to give appropriate advice on wills.

## Participation Tasks

Assessment Type <sup>1</sup>: Participatory task

Indicative Time on Task <sup>2</sup>: 24 hours

Due: **Ongoing**

Weighting: **20%**

Students will be assessed on their informed participation in discussions, role plays, debates, online forums, quizzes and other activities.

On successful completion you will be able to:

- Describe and explain links between understandings of property and relationships in the context of succession law.

- Analyse case law on the Succession Act 2006 (NSW) and apply to the validity and interpretation of wills.
- Critically evaluate the law on family provision and apply family provision legislation to complex factual situations involving estate disputes.
- Advise on competing family claims dealing with testate estates, intestate estates and partial intestacy.
- Assess the various legal principles to give appropriate advice on wills.

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<sup>1</sup> If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

<sup>2</sup> Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

## Delivery and Resources

### Compulsory Text

Rosalind Croucher and Prue Vines, *Succession: Families, Property and Death* (LexisNexis, 5th ed, 2019).

### Lectures

The weekly lectures will be delivered by Dr Henry Kha and the recordings will be made available online.

### Tutorials

Class participation will be assessed in weekly tutorials.

### Online Content

Online content can be accessed on iLearn. Personal computer and Internet access are required.

## Unit Schedule

1. Introduction to Succession
2. Boundaries of Succession
3. Death Law
4. The Testator's Mind
5. Formalities of a Will
6. Dispensing with Formalities

7. Revocation and Alteration of Wills
8. Gifts
9. Intestacy
10. Executors and Administrators
11. Administration Process
12. Family Provision

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Assessment Procedure](#)
- [Complaints Resolution Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

Students seeking more policy resources can visit [Student Policies \(https://students.mq.edu.au/support/study/policies\)](https://students.mq.edu.au/support/study/policies). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au) and use the [search tool](#).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/student-conduct>

## Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the

expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

### The Writing Centre

[The Writing Centre](#) provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)
- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

## Student Services and Support

Macquarie University offers a range of [Student Support Services](#) including:

- [IT Support](#)
- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)
- [Student Advocacy](#) provides independent advice on MQ policies, procedures, and processes

## Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.